

# News Release

# Senator Pete V. Domenici

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FOR IMMEDIATE RELEASE

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## SUBCOMMITTEE ACCEPTS DOMENICI AMENDMENT BLOCKING FEDERALIZATION OF N.M. WATER

### Provision Added to Energy & Water Development Appropriations Bill

WASHINGTON -- U.S. Senator Pete Domenici today moved to prohibit the Department of Interior from implementing a solicitor's opinion that would federalize activities of the Middle Rio Grande Conservancy District and hurt the Fort Sumner Irrigation District.

Domenici, chairman of the Energy and Water Development Appropriations Subcommittee, today gained his subcommittee's approval for the amendment. The FY2001 Energy and Water Development Appropriations Bill (H.R.4733) funds the Department of Energy, and an assortment of Army Corps of Engineers and Bureau of Reclamation water projects.

The amendment (*language attached below*) simply prohibits the Department of Interior from using any funds to force the Middle Rio Grande Conservancy District (MRGCD) or the Fort Sumner Irrigation District (FSID) to surrender water rights in an effort to drastically increase water flows in the Rio Grande and Pecos River, respectively. The legislation also includes provisions what would allow the Interior Department to move forward with its water flow directive, but only if an agreement is reached with New Mexico water rights holders, the State Engineer, or "by a final non-appealable court order."

"I believe the Interior Department has forced our hand on this issue by jumping the gun with its cursory opinion that usurps New Mexico water laws and water rights owners, whether they be the city of Albuquerque or farmers. A federal takeover would have a very serious, negative and long-term impact on water rights and usage in New Mexico," Domenici said.

"I am willing to work with Secretary Babbitt, but I want to put the Interior Department on notice that such cavalier actions are unwarranted and disruptive to an ongoing process to resolve complex water issues in New Mexico," he said. "Point blank, this is not an attack on the Endangered Species Act, but rather a response to an off-the-wall solicitor's opinion laid down in the middle on an ongoing court suit."

The Albuquerque Bureau of Reclamation (BOR) Area Manager last Thursday sent a letter to MRGCD stating that the district operates as an agent of the United States, and should operate its "transferred works" to allow 300 cubic feet per second (cfs) of water to bypass San Acacia Dam.

Despite the fact that an October 1999 BOR Biological Assessment stated that the BOR did not have a controlling property interest in MRGCD facilities, Interior Department Solicitor John Leshy issued a brief opinion on June 19 stating that the BOR has title to MRGCD facilities.

The BOR has also asked the FSID to give up its water from the Pecos River 6 within six months, or the federal government will take over the district's facilities.

Federal District Court Judge James Parker is scheduled to conduct a July 24 hearing on the lawsuit filed by environmental groups last fall to force the Bureau of Reclamation and Army Corps of Engineers to keep the Rio Grande wet.

Separately from today's subcommittee actions, Domenici sent Interior Secretary Bruce Babbitt a letter (*copy attached*) expressing his dismay over the department's latest actions.

"I was stunned at this memorandum and its timing," Domenici wrote. "I have been working toward a fair resolution of these issues for a long time, and have had more than a year's worth of quiet negotiations endeavoring to save the silvery minnow, and yet protect the people who rely on the water from the Rio Grande when the solicitor's memo hit."

"I intend to use all means at my disposal to prevent the practical implementation of both the Leshy memorandum and the letter regarding the Middle Rio Grande Conservancy District and the Fort Sumner Irrigation District," he said.

The full Senate Appropriations Committee will next consider the FY2001 Energy and Water Development Appropriations Bill on Tuesday.

The following is the language Domenici added to his bill:

*At the appropriate place in the bill insert the following:*

*Effective for fiscal year 2000, and each subsequent fiscal year, notwithstanding any other provision of law, no funds appropriated in this or any other act shall be expended to implement the policies articulated in the memorandum dated June 19, 2000, concerning the Middle Rio Grande Project, written by the Solicitor of the Department of Interior to the Commissioner of the Bureau of Reclamation and the Director of the Fish and Wildlife Service, and the legal analysis referenced in the memorandum or any subsequent recommendations, directives or other correspondence including a letter referenced ALB-105 ENV-4.00, dated July 6, 2000, to the Chief Executive Officer of the Middle Rio Grande Conservancy District from*

*the Albuquerque Area Manager of the Bureau of Reclamation addressing the issues raised by this Solicitor's memorandum except as may be provided in an agreement entered into by all affected holders of water rights within the Middle Rio Grande Conservancy District and which agreement has been approved by the New Mexico State Engineer, or as may be required by a final non-appealable court order.*

*Effective for fiscal year 2000, and each subsequent fiscal year, notwithstanding any other provision of law, no funds appropriated in this or any other act shall be expended to implement the policies, recommendations and directives articulated in a letter referenced ENV-4.00, ALB-105, dated June 29, 2000, to the Chairman of the Board of Directors for the Fort Sumner Irrigation District from the Albuquerque Area Manager of the Bureau of Reclamation regarding the Fort Sumner Diversion Dam Water Operations except as may be provided in an agreement entered into by all affected holders of water rights within the Fort Sumner Irrigation District and which agreement has been approved by the New Mexico State Engineer, or as may be required by a final non-appealable court order.*

Domenici also reported that he has provided a \$3.75 million increase for the **Middle Rio Grande Project**, a habitat restoration project championed by the Senator over the past decade. Of a total \$14.8 million for the project in FY2001, the bill provides the following increases

- \$500,000 for research, monitoring, and modeling of evapo-transpiration.
- \$258,000 to implement a program to transplant minimum larvae and young-of-year in Rio Grande River. State to provide matching funds.
- \$3 million to continue habitat and restoration activities started last year.
- Support the budget request of \$930,000 for water acquisition for endangered species.